IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 980 of 1986

For Approval and Signature:

HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BRIGHT STAR ENGINEERING CO.

Versus

SHARAVATHY PETROCHEMICALS PVT.LIMITED

Appearance:

1. First Appeal No. 980 of 1986
MR BG JANI for appellant No. 1
NOTICE UNSERVED for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 05/02/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.C.PATEL)

The appellant was defendant No.1 in the Summary Suit No. 393 of 1981 in the Court of learned 2nd Jt. Civil Judge, Senior Division, Vadodara. The suit was filed by respondent No.1 and respondent No.2 was defendant No.2. The appellant's application for leave to defend was rejected and the decree was passed in favour of respondent No.1 and against the appellant. The appellant has, therefore, filed this First Appeal, challenging the said judgment and decree.

2. It appears that respondent No.1 - original plaintiff, in whose favour the decree was passed, remained unserved as not found and on 19.12.2003, the Court ordered fresh notice to issue to respondent No.1 at the address to be furnished by the appellant and further directed that on failure to furnish the correct and complete address of respondent No.1 within three weeks, the appeal shall stand dismissed for non-prosecution qua respondent No.1. The appellant has not complied with the said order. In the result, the appeal stands dismissed qua respondent No.1. Since the original plaintiff in whose favour the decree was passed stands deleted, the appeal does not survive and has become infructuous. It is, therefore, dismissed.

(Kshitij R. Vyas, J.)

(M.C. Patel, J.)

Sreeram.